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| <b>Meeting:</b>         | <b>Audit and governance committee</b>                |
| <b>Meeting date:</b>    | <b>Wednesday 29 November 2017</b>                    |
| <b>Title of report:</b> | <b>Council constitution</b>                          |
| <b>Report by:</b>       | <b>Solicitor to the council (monitoring officer)</b> |

## **Classification**

Open

## **Decision type**

This is not an executive decision

## **Wards affected**

(All Wards);

## **Purpose and summary**

To consider how to undertake the 2018 annual review of the constitution.

A function of this committee is to maintain an overview of the council's constitution and recommend any changes to council. The review is scheduled in the work programme for January of each year. The purpose of the report is to establish how the review will be undertaken.

## **Recommendation(s)**

That:

- (a) the questionnaire in appendix 1 is approved for circulation to all members;**
- (b) a constitution working group be established, with terms of reference as set out in paragraph 4, to consider any revised changes to the constitution; and**
- (c) the committee determine membership of the constitution working group.**

## Alternative options

1. To not undertake a review at this time due to the fact that the revised constitution has only been in operation since May 2017; this is not recommended because the work needed to make changes to the constitution takes time and if this was not commenced until after May 2018 the current constitution could be in operation for 18 months without changes being made.
2. To propose alternative or additional methods of undertaking the review. More in depth consultation could be undertaken – this is not recommended given the short period of time the constitution has been in operation and the absence of any evidence supporting the need for a more fundamental review. The committee may decide not to establish a member working group – this is not recommended as the working group model provided an effective mechanism for ensuring that members of all groups had appropriate opportunities to make their views known and to ensure that amendments proposed are in line with the agreed design principles.

## Key considerations

3. In December 2016 and May 2017 Council approved a revised constitution for implementation with effect from the annual council meeting in May 2017. The work was undertaken by two member-led working groups who have completed their work and are no longer operating:
  - the standards working group –; which was a working group of this committee; and
  - the governance improvement working group – which was a working group which reported to this committee, but whose membership (in line with guidance on reviewing models of governance) ensured cross party representation as well as representation from the various functions (audit, executive, regulatory, and scrutiny).
4. The establishment of a working group is useful to this committee given the detail to be discussed and debated. The terms of reference for such a group would be to oversee a review of the constitution, ensure that opportunities for members to engage in the review process are appropriate and communicated effectively, and recommend any changes to the committee ensuring that any such recommendations align to the design principles. The intention is to conduct a light touch review to ensure the constitution remains fit for purpose and is operating as intended to meet the agreed design principles.
5. The membership would normally be drawn from the committee, although it is open to the committee to co opt previous members of the governance improvement working group, some of whom have expressed interest in continuing to be involved, which would assist in providing a balance of continuity and ‘fresh eyes’ as well as representation from all political groups.
6. It is important that all members are able to provide their views on the operation of the constitution so it is proposed that the questionnaire in appendix 1 is used via survey monkey, to gather views and identify any areas of particular problem or concern. The questions as posed follow the design principles that were approved by the audit and governance committee in November 2015, and which sought to ensure that:
  - a) Members and officers perform effectively in clearly defined functions and roles
  - b) Member engagement and participation is maximised, including the involvement of

- all members in the development of key policies
- c) Decision making is informed, transparent and efficient
- d) The council welcomes public engagement and makes accountability real

7. The anticipated timetable and activity for the working group is as follows;

| Date                        | Activity   |
|-----------------------------|--|
| 1 December 2017             | Send survey to all members   |
| 1 January 2018              | Survey end date  |
| 2- 5 January                | Collate survey results   |
| w/c 8 January               | Meeting of working group to consider survey results                            |
| 16 January                  | Publish working group progress report for AGC                                  |
| 24 January                  | AGC meeting  |
| w/c 5 February              | Meeting of working group to agree (if any) recommended changes to constitution |
| March group leaders meeting | Consult with group leaders   |
| 13 March                    | Publish working group recommendations for AGC                                  |
| 21 March                    | AGC meeting  |
| 25 May                      | Full council meeting   |
| 25 May                      | Any changes to the constitution implemented                                    |

## Community impact

8. The constitution sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. The format and content of the revised constitution should help make these arrangements clearer to understand, and show how the public can effectively engage with them.

## Equality duty

9. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10. The review of the constitution will seek to ensure that, in its decision-making and its operations, the council fully complies with the public sector equality duty.

## Resource implications

11. None arising from the recommendations. The council already makes provision within its

existing budgets to enable publication of the constitution on its website and to ensure that members and officers have the training necessary to ensure awareness and understanding of the requirements within the constitution.

## **Legal implications**

12. The council must prepare and keep up to date a constitution in accordance with s37 of the Local Government Act 2000.

## **Risk management**

13. If the council's constitution is not accurate, up to date and understood then there is a risk that governance arrangements are not clear and robust leaving the council open to judicial review, contractual challenge or financial risk.

## **Consultees**

14. Group leaders were asked for their views as to whether previous working group members who were not members of the committee but had expressed a desire to participate should have the opportunity to be co-opted onto such a working group. Group leaders suggested that any working group established by audit & governance committee would undoubtedly benefit from the experience of members who had been closely involved in the recent review, as well as new members with a fresh view. It was emphasised that any members should be able to provide their views to working group members and through an online survey on the membership of the working group.

## **Appendices**

Appendix 1 – proposed survey monkey questionnaire

## **Background papers**

None identified.